

means for displaying the ranking to the seller who made the bid.

34. (Amended) The system of claim 33, wherein the means for ranking determines an ordinal rank for each bid.

35. (Amended) The system of claim 34, further comprising means for receiving, transforming and ranking each bid as new bids are received.

36. (Amended) The system of claim 35, further comprising means for rejecting a bid if a bid ranking results in a tie bid.

37. (Amended) The system of claim 35, further comprising means for displaying a tie rank to the seller if a new bid results in a tie rank.

### **REMARKS**

#### **Summary of the Office Action**

Claims 10-37 stand objected to because of claim numbering informalities.

Claims 1-5, 7-14, 16-23 and 25-37 stand rejected under 35 U.S.C. 102(e) as being anticipated by Alaia et al. (U.S. Patent No. 6,199,050).

Claims 6, 15 and 24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Alaia et al., in view of Togher et al. (US Pat. No. 6,014,627).

#### **Summary of the Response to the Office Action**

Applicants greatly appreciate the Examiner's explicit instructions regarding the numbering of the claims, and have amended the claims to accord with the Examiner's suggestions. Accordingly, Applicants respectfully request that the objection be removed.

#### **The Rejection Under 35 U.S.C. 102(e)**

Enclosed herewith is a Supplemental Declaration indicating a claim of priority to U.S. Patent Application No. 09/832,437, filed April 11, 2001 (the "'437 Application"). The '437 Application is a continuation of U.S. Patent Application No. 09/311,555, (the

“555 Application”) which issued as U.S. Patent No. 6,230,147 (the “147 Patent”) on May 14, 1999. The ‘555 Application is in turn a divisional application stemming from U.S. Patent Application No. 09/252,790 (the “790 Application”). The ‘790 Application has issued as U.S. Patent Nos. 6,199,050, 6,216,144, 6,233,167, 6,230,146 and 6,230,147 through divisional applications. Therefore, in view of the claim of priority in the Supplemental Declaration to the ‘437 Application, Applicants submit that the rejection under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,299,050 (the “050 Patent”) is moot, as this Patent issued from the same parent application – the ‘790 Application.

Therefore, Applicants submit that his rejection is moot, and request that the Examiner remove the this rejection.

#### **The Rejection under 35 USC 103(a)**

Claims 6, 15 and 24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the ‘050 Patent in view of U.S. Patent No. 6,014,627 to Togher et al. (the “Togher Patent”). As the Supplemental Declaration submitted herewith claims priority to the same parent application as the ‘050 Patent, as discussed above, Applicants submit that this rejection is also moot, and earnestly request that the Examiner also remove this rejection.

#### **Conclusion**

In view of the foregoing, Applicants submit that no new matter has been introduced in the amendments presented herein. Applicants furthermore submit that claims 1-37 are in condition for allowance. Accordingly, allowance of claims 1-37 at an early date is earnestly solicited. If the Examiner is of the opinion that the present application is not in condition for allowance, the Examiner is respectfully requested to contact Applicants’ attorney at 412.560.7053 in order that any such concerns may be expeditiously addressed.

Applicants believe that because the filing date of the present application is before November 29, 2000, the requirements of C.F.R. 1.78(a)(3) have been met. However, if the Examiner disagrees, the Examiner is requested to consider this a constructive Petition

to Accept an Unintentionally Delayed Claim Under 35 U.S.C. 120, 121 or 365(c) for the Benefit of a Prior Filed Application, and the Examiner is authorized to charge the fee required by C.F.R. 1.78(a)(3)(ii) and 1.17(t) to our Deposit Account No. 50-0310. Applicants hereby state that the entire delay between the date the claim was due under C.F.R. 1.78(a)(2) and the present date was unintentional.

If there are any other fees due in connection with the filing of this response, please charge the fees to our **Deposit Account No. 50-0310**. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached pages are captioned "Version With Markings To Show Changes Made."

Respectfully Submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

A handwritten signature in black ink, appearing to read "Richard W. James", is written over a horizontal line.

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Dated: August 30, 2001

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**IN THE SPECIFICATION**

The following paragraph has been inserted at Page 2, line 3:

**-- Reference to Related Applications**

This application is a continuation-in-part of copending United States Application No. 09/832,437, entitled "METHOD AND SYSTEM FOR CONTROLLING AN ELECTRONIC AUCTION DURING THE TRANSITION TO A CLOSED STATE", filed April 11, 2001, previously assigned to the assignee of the present Application, FreeMarkets, Inc. –

**IN THE CLAIMS**

Claims 9-37 have been amended as follows:

[8A]9. (Amended) The method of claim 1, wherein step (c) comprises the step of displaying a tie rank to the bidder if the ranking in step (b) results in a tie.

[9]10. (Amended) A computer program product for enabling a processor in a computer system to process bidding information in an electronic auction, amongst a plurality of bidders, said computer program product comprising:

a computer usable medium having computer readable program code means embodied in said medium for causing an application program to execute on the computer system, said computer readable program code means comprising

a computer readable program code means for enabling the computer system to receive a plurality of bids from bidders, rank said bids in order of attractiveness, and for each bid, display the rank to the bidder who made the bid.

[10]11. (Amended) The computer program product of claim [9]10, further comprising computer readable program code means for enabling the computer system to determine an ordinal rank for each bid that is displayed to the bidder.

[11]12. (Amended) The computer program product of claim [9]10, further comprising computer readable program code means for enabling the computer system to rank bids in accordance with the price of the bids.

[12]13. (Amended) The computer program product of claim [9]10, further comprising computer readable program code means for enabling the computer system to transform a bidder comparative bid parameter into a comparative bid parameter for the originator of the auction.

[13]14. (Amended) The computer program product of claim [9]10, further comprising computer readable program code means for enabling the computer system to receive transformed bid information.

[14]15. (Amended) The computer program product of claim [13]14, further comprising computer readable program code means for enabling the computer system to receive a bid price in a base currency, wherein said bid price is originally defined in a local currency of said first bidder.

[15]16. (Amended) The computer program product of claim [9]10, further comprising computer readable program code means for enabling the computer system to transmit the rank received to the bidder.

[16]17. (Amended) The computer program product of claim [9]10, further comprising computer readable program code means for enabling the computer system to rank bids in order of attractiveness, and for each bid, display the rank to the bidder who made the bid as new bids are received.

[16A]18 (Amended). The computer program product of claim [9]10, further comprising computer readable program code means for enabling the computer system to display a tie rank to the bidder if the ranking results in a tie.

[17]19. (Amended) A system for processing bidding information in an electronic auction amongst a plurality of bidders, comprising:  
means for receiving a plurality of bids from bidders;  
means for ranking said bids in order of attractiveness; and  
for each bid, means for displaying the rank to the bidder who made the bid.

[18]20. (Amended) The system of claim [17]19, wherein said means for ranking bids includes means for determining an ordinal rank for each bid that is displayed to the bidder.

[19]21. (Amended) The system of claim [17]19, wherein said means for ranking bids includes means for ranking in accordance with the price of the bids.

[20]22. (Amended) The system of claim [17]19, further comprising means for transforming a bidder comparative bid parameter into a comparative bid parameter for the originator of the auction.

[21]23. (Amended) The system of claim [17]19, wherein said means for receiving bids includes means for receiving transformed bid information.

[22]24. (Amended) The system of claim [21]23, wherein said means for receiving bids comprises means for receiving a bid price in a base currency, wherein said bid price is originally defined in a local currency of said first bidder.

[23]25. (Amended) The system of claim [17]19, further comprising means for transmitting the rank to the bidder.

[24]26. (Amended) The system of claim [17]19, further comprising means for receiving and ranking bids as new bids are received.

[24A]27. (Amended) The system of claim [17]19, wherein said means for displaying the rank comprises means for displaying a tie rank to the bidder if the ranking results in a tie.

[25]28. (Amended) A method of conducting an electronic online auction between a buyer and a plurality of potential sellers, comprising the steps of:

- (e) receiving a plurality of bids from sellers;
- (f) for each bid, transforming the bid into a buyer comparative bid parameter;
- (g) ranking said bids in order of attractiveness based up the buyer comparative bid parameter; and
- (h) for each bid, displaying the rank determined in step (c) to the seller who made the bid.

[26]29. (Amended) The method of claim [25]28, wherein the ranking in step (c) determines an ordinal rank for each bid that is displayed to the seller in step (d).

[27]30. (Amended) The method of claim [26]29, comprising the additional steps of repeating steps (b), (c) and (d) as new bids are received.

[28]31. (Amended) The method of claim [27]30, further comprising the additional step of rejecting a bid if the bid ranking determined in step (b) results in a tie bid.

[29]32. (Amended) The method of claim [27]30, wherein step (d) comprises the step of displaying a tie rank to the seller if a new bid results in a tie rank.

[30]33. (Amended) A system for processing bidding information in an electronic auction between a buyer and a plurality of potential sellers, comprising:

means for receiving a plurality of bids from sellers;  
means for transforming each bid into a buyer comparative bid parameter;  
means for ranking said bids in order of attractiveness based up the buyer  
comparative bid parameter; and  
means for displaying the ranking to the seller who made the bid.

[31]34. (Amended) The system of claim [30]33, wherein the means for ranking determines an ordinal rank for each bid.

[32]35. (Amended) The system of claim [31]34, further comprising means for receiving, transforming and ranking each bid as new bids are received.

[33]36. (Amended) The system of claim [32]35, further comprising means for rejecting a bid if a bid ranking results in a tie bid.

[34]37. (Amended) The system of claim [32]35, further comprising means for displaying a tie rank to the seller if a new bid results in a tie rank.